IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA ex rel. JOHN WALDRON #N23690,	)	
Petitioner,	)	
v.	)	No. 08 C 3277
DONALD A. HULICK,	)	
Respondent.	)	

MEMORANDUM ORDER

Just yesterday this Court's secretary received a call from counsel in the Illinois Attorney General's Office--snide in both tone and content--advising that "the Court of Appeals was wondering when Judge Shadur would rule on Petitioner's Notice of Objection." Unfortunately the answer is that this Court had no knowledge at all that any such document existed until that phone call--although the document had been received in this District Court's Clerk's Office on June 23 and docketed that same day, pro se petitioner John Waldron ("Waldron") had tendered only the original of that document despite the express requirements in the District Court rules (1) that a second copy of every filed document be furnished for delivery to chambers as the "Judge's Copy" or (2) when a document is filed electronically, as almost all filings are today, that a paper copy be delivered to the assigned judge's chambers within a day after filing.[1] This

[1] Any other arrangement would require a judge's minute clerk, on a daily basis, to be (1) monitoring all CM-ECF filings

Court's secretary has promptly printed out a copy of Waldron's hitherto-unknown Notice of Objection, and this memorandum order just as promptly addresses it.

First, it is a total non sequitur for Waldron to state (emphasis in original):

> Due to a clear and convincing jurisdictional defect, the Illinois Courts have no jurisdiction to hear any of the issues presented in this federal habeas petition.
>
> Therefore, this Court must hear the constitutional merits (De Novo Review) of this petition.

What Waldron ignores is that what he describes as the absence of state court jurisdiction was the result of the sequence described by the Illinois Appellate Court for the Second District in its July 11, 2007 opinion (375 Ill.App.3d 159, 160, 872 N.E.2d 1036, 1037) and quoted at page 2 of this Court's June 11, 2008 memorandum order ("Order") dismissing Waldron's 28 U.S.C. §2254 Petition for Writ of Habeas Corpus ("Petition"), after which this Court held (Order at 2-3):

> It is plain from that description that all issues raised in Waldron's first post-conviction proceeding are barred from federal review under Section

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or (2) running a docket printout in all the cases on this Court's calendar, adding an enormous and unfair burden to the work of this District Court's efficient minute clerks, who have a great many legitimate matters occupying them full time. Indeed, even if a judge or his or her staff were somehow alerted to the existence of an otherwise unknown filing, it would be unfair to shift the cost of reproduction (often of extremely voluminous filings) from the litigant to the court and court personnel, and both unfair and burdensome to shift the inconvenience of such reproduction in the same way.

> 2244(d)(1). And as for the second post-conviction proceeding, it is equally plain that the issues raised there do not jibe at all with any of the asserted federal constitutional claims that form the gravamen of Waldron's current Petition--so that the current Petition is also barred under Section 2244(d)(1).

Next Waldron mistakenly says that AEDPA does not apply to him because it "was not in effect in 1989 when the underlying offense occurred, and as ruled in Apprendi, new procedural rules are not retroactive." That is flat-out wrong, just as Waldron mistakenly seeks to invoke Townsend v. Sain, 372 U.S. 293, 312 (1963) as somehow entitling him to a hearing on his time-outlawed claim.

Finally, what Waldron continues to misunderstand, although the Illinois Appellate Court explained otherwise and this Court followed its lead in the earlier-quoted passage from its Order, is that he cannot bootstrap himself by reviving in his current federal Petition arguments that are time-barred because of the dates of their disposition in state post-conviction proceedings. And none of the other assertions made by Waldron in his Notice of Objection adds merit to his position.

In sum, none of the matters set out in Waldron's June 23 filing alters what this Court said and did in its July 14, 2008 memorandum order and statement, even though this Court then had

no knowledge (or notice) of Waldron's June 23 filing.[2]

Milton I. Shadur
Senior United States District Judge

Date: August 13, 2008

[2] In that respect, this Court is taking steps to have the Clerk's Office set up procedures to avoid the recurrence of such situations in the future.